

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

\*  
ELAINE L. CHAO, Secretary of Labor, \*  
United States Department of Labor, \*  
Plaintiff, \* CIVIL ACTION  
\*  
v. \* FILE NO. 04-40065-FDS  
\*  
BRIAN M. ANGER, NDI INTERNATIONAL, INC. \*  
and NORTHEAST DISPLAY, INC. 401(K) SAVINGS \*  
AND INVESTMENT PLAN, \*  
Defendants \*  
\* \*

CONSENT JUDGMENT AND ORDER

Defendants Brian M. Anger (“Anger”) and Northeast Display, Inc. 401(k) Savings and Investment Plan and Plaintiff, Elaine L. Chao, Secretary of Labor, United States Department of Labor, (the “Secretary”) have agreed to resolve all matters in controversy in this action between the Secretary and Anger (except for the imposition by Plaintiff of any penalty pursuant to ERISA Section 502(l), 29 U.S.C. §1132(l) and any proceedings related thereto), and have also agreed to resolve all matters between the Secretary and the Northeast Display, Inc. 401(k) Savings and Investment Plan and said parties do now consent to entry of a Judgment and Order by this Court in accordance therewith.

By consent to this Order, defendant Brian M. Anger has admitted to the jurisdiction of this Court over him and over the subject matter of this action.

Defendant Northeast Display, Inc. 401(k) Savings and Investment Plan, through its independent fiduciary, has acknowledged receipt of Plaintiff's Complaint. By consent to this Order,

the independent fiduciary, on behalf of defendant Northeast Display, Inc. 401(k) Savings and Investment Plan, has admitted to the jurisdiction of this Court over it and over the subject matter of this action.

Upon consideration of the record herein, and as agreed to by the parties, the Court finds that it has jurisdiction to enter this Consent Judgment and Order.

The parties agree, for purposes of any future assessment of penalty pursuant to ERISA §502(l), 29 U.S.C. §1132(l), that the “applicable recovery amount” shall be the amount of \$35,623.42 as set forth in paragraph 1, below. This agreement will not operate to prevent defendant Brian M. Anger from seeking a waiver of any future assessment of penalty pursuant to ERISA §502(l), 29 U.S.C. §1132(l).

By assenting to this Order, defendant Brian M. Anger neither admits nor denies the allegations of the Complaint.

Defendants Brian M. Anger and Northeast Display, Inc. 401(k) Savings and Investment Plan, having agreed to entry of this Consent Judgment and Order, and with due consideration and being fully advised of the premises,

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. Defendant Brian M. Anger is hereby ordered to restore to the Northeast Display, Inc. 401(k) Savings and Investment Plan (the “Plan”) the sum of \$35,623.42 (the “recovery amount”) for the benefit of Plan participants other than himself. The interest of each Plan participant in said recovery amount is set forth in Exhibit A attached hereto. Defendant Brian M. Anger shall waive the portion of his existing account balance necessary to assure that the full recovery amount is restored to the Plan. Defendant Anger’s waived interest in his account balance shall be redistributed to the remaining participants in the Plan in accord with their interest as reflected in Exhibit A.

2. Defendant Brian M. Anger is hereby permanently enjoined from serving as a fiduciary or service provider to any ERISA-covered Plan.

3. Defendant Brian M. Anger is enjoined from violating the provisions of Title I of ERISA.

4. Pursuant to an Order Directing Distribution of Pension Assets, Appointing Plan

Fiduciary and Termination of the Plan issued by the United States Bankruptcy Court for the District of Massachusetts (Western Division) on May 6, 2004 in the case of *In re: NDI International, Inc.*, Chapter 7 Case No. 02-46071-JBR, CAF Pension Actuaries, Inc. (“CAF”) was appointed as independent fiduciary of Defendant Northeast Display, Inc. 401(k) Savings and Investment Plan. Due to corporate restructuring since the entry of that Order, the current independent fiduciary of the Plan is Fallon Pension Actuaries, Inc. Pursuant to the Order of the Bankruptcy Court, the independent fiduciary of the Plan is charged with the responsibility to terminate the Plan and effect distributions to participants. Fallon Pension Actuaries Inc., on behalf of defendant Northeast Display, Inc. 401(k) Savings and Investment Plan, reaffirms its obligations under the Order of the Bankruptcy Court and agrees to comply with all Orders of the Court issued in this matter.

5. Based upon the resolution of this matter as set forth in this Consent Judgment, the funds in Mr. Anger’s account shall be released from Manulife Financial, the custodian of plan assets. The funds shall be transferred to Fallon Pension Actuaries in order that Fallon may utilize the waived portion of Mr. Anger’s account and distribute such waived portion as set forth in paragraph 1, *supra* and distribute the remaining account balance to Mr. Anger.

6. In accordance with the Court ordered termination of the Plan, Fallon, on behalf of defendant Northeast Display, Inc. 401(k) Savings and Investment Plan, shall take all steps necessary to distribute assets of the Plan to its participants and/or beneficiaries, subject to the provisions of

paragraph 1, *supra* and shall execute any and all documents necessary to effect termination of the Plan.

7. Each party shall bear its own fees and expenses with respect to this action.
8. The Court shall retain jurisdiction of this matter for the purposes of enforcing this Consent Judgment and Order.
9. Nothing in this Judgment is binding on any governmental agency other than the United States Department of Labor.

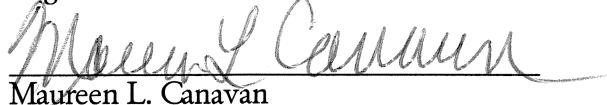
IT IS SO ORDERED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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F. Dennis Saylor, IV  
United States District Judge

Consented to by:

For the Plaintiff  
Secretary of Labor:  
Howard M. Radzely  
Solicitor of Labor  
Frank V. McDermott  
Regional Solicitor

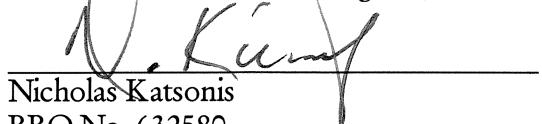
  
Maureen L. Canavan

Attorney BBO# 550969  
U.S. Department of Labor  
Office of the Solicitor  
J.F.K. Federal Building, Room E-375  
Boston, MA 02203

12-16-04

Dated

For Defendant Brian M. Anger:

  
Nicholas Katsonis  
BBO No. 632580  
de Verges & Katsonis  
40 Southbridge Street, Suite 215  
Worcester, MA 01608

12-9-04

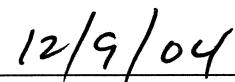
Dated

For Defendant  
Northeast Display, Inc. 401(k)  
Savings and Investment Plan:



Michael Fallon  
Fallon Pension Actuaries, Inc  
16 Prescott Street, Suite 250  
Wellesley, MA 02481

Dated



## Exhibit A

<u>Participant</u>	<u>Amount Due</u>
Anger, Brian J.	\$1,125.00
Anger, Jean M.	\$3,900.00
Anger, Timothy J.	\$ 35.00
Balling, Thomas Jr.	\$ 165.00
Bernard, Michelle L.	\$ 547.87
Berthiaume, Pierre R.	\$ 728.00
Beshai, Daniel E.	\$ 879.98
Boyle, Helen	\$ 30.00
Bray, Douglas	\$ 390.00
Brunelle, Alan R.	\$1,527.99
Burbo, John L.	\$ 570.00
Cabrera, Osvaldo	\$ 200.00
Card, Jeffrey W.	\$2,174.05
Cerrone, Richard F.	\$ 390.00
Cipro, Sebastiano R.	\$ 281.94
Dykeman, Paul M.	\$ 550.00
Giard, Pierre	\$4,037.15
Godfrey, Robert R.	\$ 506.97
Lapan, Kenneth M.	\$1,300.00
Lavin, Roberta L.	\$ 325.00
Leboeuf, Brian	\$ 360.00
Martel II, Ronald M.	\$1,040.00
Mihoubi, Sheila M.	\$ 425.00
Paradise, Robert F.	\$1,040.00
Pilkington, Andrew P.	\$ 950.00
Pyko, Edward S.	\$ 622.19
Radibou, Michele R.	\$ 662.52
Richards, John H.	\$ 475.00
Sheppard, Peter J.	\$1,194.68
Stamm, John-Paul	\$2,250.04
Tilton, James	\$3,250.00
Veideman, Jeffrey P.	\$ 759.42
Weagle, Charles K.	\$ 880.00
White, James M.	\$ 498.56
Zuidema, Stephen P.	<u>\$1,552.06</u>
	\$35,623.42